R E M A R K S

Claims 1 through 44 are in the application. Claims 1, 9, 13, 21, 24, 31, 33, and 41 are the independent claims herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claim Rejections

Claims 9-12, 21-23, 31, and 32 are rejected under 35 U.S.C. §101. Claims 1-40 are rejected under 35 U.S.C §103(a) as being anticipated by U.S. Publication No. 2004/0187112 ("Potter") in view of U.S. Patent No. 5,916,309 ("Brown"). Claims 41-44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Potter in view of Brown and in further view of U.S. Patent Publication No. 2003/0233388 ("Glasco"). Reconsideration and withdrawal of the rejections are respectfully requested.

§101 Rejections

Claims 9-12, 21-23, 31, and 32 are rejected under 35 U.S.C. §101 as allegedly reciting non-statutory subject matter. In support of the §101 rejection, the Office Action cites the Interim Guidelines for Examination of Patent Applications for Patent Subject Material Eligibility. Applicants respectfully point out that the Interim Guidelines state "when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases (Interim Guidelines for Examination of Patent Application for Patent Subject Matter Eligibility, Annex IV, paragraph 2, Official Gazette, November 22, 2005).

Furthermore, "[w]hen a computer program is claimed in a process where the computer is **executing** the computer program's instructions, USPTO personnel should treat the claim as a process claim."

The Interim guidelines also state "a signal encoded with functional descriptive material is similar to a computer-readable memory encoded with functional descriptive material, in that they

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both create a functional interrelationship with a computer. In other words, a computer is able to execute the encoded functions, regardless of whether the format is a disk or a signal."

Applicant notes that Claims 9-12, 21-23, 31, and 32 in fact relate to a "medium storing program code, the program code executable to", and therefore Claims 9-12, 21-23, 31, and 32 recite statutory subject matter. Withdrawal of the §101 rejection is respectfully requested.

§103 Rejections

Claims 1, 9, 13, 21, 24, 31, 33, and 41

As previously stated, independent claim 1 relates to a method. The method comprises receiving a network packet, dividing the network packet into a plurality of m-packets, receiving a portion of the network packet where the portion of the network packet comprises one of the plurality of m-packets, retrieving a sequence number, passing the sequence number to a sequence election unit, waiting to receive a signal to process the packet from the sequence election unit, and performing processing on the packet in response to receipt of the signal. Moreover, a size of each of the plurality of m-packets is equal to an element size, and the element size is associated with a receive buffer.

The art of record cannot be seen to disclose or to suggest the above-mentioned features of amended independent claim 1. In particular, the art of record cannot be seen to disclose or to suggest receiving a network packet, and dividing the network packet into a plurality of m-packets where a size of each of the plurality of m-packets is equal to an element size, and where the element size is associated with a receive buffer.

The Office Action states that Brown discloses dividing a network packet into a plurality of m-packets where a size of each of the plurality of m-packets is equal to an element size and where the element size is associated with a receive buffer. Applicant respectfully disagrees.

Brown, at column 7, lines 15 through 65, discloses communication between two infrared ports. Only one infrared port may transmit at a time because when a sending port is transmitting to a receiving port, the sending port is blinded by its own transmission. To synchronize

communication, the sending and receiving ports discover each port's capabilities and enact communication parameters that each will employ. One such parameter is a maximum turnaround time that defines a length of time a sending port may transmit.

At column 9, line 56 through column 10 line 20, Brown discloses an infrared input port 18 that receives data packets from a transmitting station 24 where "each data packet is delivered, one-by-one, into one of the receive buffers" 51-58. Brown further states that if a transmitting station 24 is capable of communicating at a fast data rate, then up to seven data packets may be potentially transmitted within a single maximum turnaround time interval. However, each packet received within the turn around time interval is still "delivered, one-by-one, into one of the receive buffers" 51-58 and thus Brown recommends that input buffers comprise at least seven buffers.

Therefore, the Office Action's statement that multiple packets "transmitted within a time interval can be viewed as one network packet consisting of smaller individual packets" and that "the individual packets are separated upon reception" is incorrect. Brown's packets sent within a time interval are received one-by-one within the time interval and are not separated upon reception.

Therefore, nowhere can Brown be seen to disclose or to suggest receiving a network packet, and dividing the network packet into a plurality of m-packets where a size of each of the plurality of m-packets is equal to an element size, and where the element size is associated with a receive buffer.

Potter cannot be seen to remedy the aforementioned deficiencies in Brown. Potter discloses receiving a portion of a network packet at 424 of FIG. 4. Arrow 424, as described in paragraph [0040], indicates packets that require some type of processing. However, nowhere does Potter disclose that a received packets is divided into a plurality of m-packets where a size of each of the plurality of m-packets is equal to an element size, and where the element size is associated with a receive buffer.

Therefore, in view of the foregoing, nowhere can Brown or Potter, taken in any permissible combination, be seen to disclose or to suggest receiving a network packet, and

dividing the network packet into a plurality of m-packets where a size of each of the plurality of m-packets is equal to an element size, and where the element size is associated with a receive buffer. In view of the foregoing, amended independent claim 1 and its related dependent claims are believed to be in condition for allowance.

Amended independent claims 9, 13, 21, 24, 31, 33, and 41 each disclose that a network packet is divided into a plurality of m-packets, where a size of each of the plurality of m-packets is equal to an element size, and where the element size is associated with a receive buffer. In view of the foregoing, amended independent claims 9, 13, 21, 24, 31, 33, and 41 and their related dependent claims are also believed to be in condition for allowance.

C O N C L U S I O N

The outstanding Office Action presents a number of characterizations regarding the applied references, some of which are not directly addressed by this response. Applicant does not necessarily agree with the characterizations and reserve the right to further discuss those characterizations.

For at least the reasons given above, it is submitted that the entire application is in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience. Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-4982.

Respectfully submitted,

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Date

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